

**PT 07-13**

**Tax Type: Property Tax**

**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

---

<b>BLOSSOMS OF YOUTH</b>	)	No. 06-PT-0056
Applicant	)	(05-16-1340)
v.	)	PIN 25-08-115-020
	)	
<b>THE DEPARTMENT OF REVENUE</b>	)	Mimi Brin
<b>OF THE STATE OF ILLINOIS</b>	)	Administrative Law Judge

---

**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Mr. Mitchell Klein for Blossoms of Youth; Mr. Marc Muchin, Special Assistant Attorney General, on behalf of the Illinois Department of Revenue

**Synopsis:**

This matter comes on for hearing pursuant to the protest by Blossom of Youth (hereinafter “Blossoms of Youth” or the “Applicant”) of the Illinois Department of Revenue’s (hereinafter the “Department”) Denial of Non-homestead Property Tax Exemption (hereinafter the “Denial”) for that part of the tax year 2005 from October 17 through December 31, 2005 (hereinafter the “tax year”) for certain property owned by applicant located in Cook County, Illinois. The grounds for the Department’s denial were that the property at issue was not in exempt ownership and that the property was not in exempt use. Pursuant to applicant’s protest, the parties appeared at a hearing on this matter whereat oral and documentary evidence was presented. Following a review of the evidence of record, it is recommended that this matter be resolved in favor of the

Department, and in support thereof, I make the following findings of fact and conclusions of law:

**Findings of Fact:<sup>1</sup>**

1. The Department's jurisdiction over this matter and its position herein for the tax year at issue, October 17 through December 31, 2005, that the property was neither in statutorily exempt ownership nor use, was established by the admission of the Denial of Non-homestead Property Tax Exemption. Department Ex. No. 1 (Denial of Non-homestead Property Tax Exemption)
2. The Cook County Board of Review (hereinafter the "Board") also denied applicant's petition for exemption for the tax year. Department Ex. No. 2 (PTAX-300 Application for Non-homestead Property Tax Exemption)
3. The property at issue is located at 1352 W. 99<sup>th</sup> Street, Chicago, Illinois (hereinafter the "Property"). *Id.*; Applicant Ex. No. 9 (Warranty Deed)
4. The property is improved with a single story, storefront-styled building of several rooms of non-specified sizes, including a kitchen, an office, a storage room, a furnace room and several bathrooms. Applicant Ex. Nos. 6 (photographs), 7 (hand-drawn floor plan, not to scale)
5. The property is used, primarily, for daycare for children ages 2 through 6 as well as for some before and after-school services. Department Ex. No. 2; Applicant Ex. No. 1 (Blossoms of Youth, Inc. Mission and Purpose/Programs statement)

---

<sup>1</sup> Findings of Fact pertain to the tax year of October 17 through December 31, 2005, unless otherwise stated.

6. An entity entitled Best Start Day Care is licensed to operate on the property for the uses stated in ¶ 5, supra. Applicant Ex. Nos. 4 (City of Chicago License Certificate), 5 (Illinois Department of Children and Family Services License)
7. As of October 17, 2005, the property is owned by the applicant, Blossoms of Youth, Inc.<sup>2</sup> Applicant Ex. No. 9. The grantor of the property was Best Start, Era Thompson, Inc. Era J. Thompson (Thompson”) was the grantor’s President. Id.
8. The Blossoms of Youth Organization is incorporated in Illinois pursuant to the Illinois General Not For Profit Corporation Act. Applicant Ex. No. 12 (Illinois Secretary of State document)<sup>3</sup>
9. Era J. Thompson is the president and founder of Blossoms of Youth Organization corporation. Id.; Transcript (“Tr.”) pp. 10-11 (Thompson)
10. Applicant is exempt from the imposition of federal income tax pursuant to section 501 (c) (3) of the Internal Revenue Code. Applicant Ex. No. 10 (Letter from the U. S. Treasury Department-Internal Revenue Service, December 9, 2005)
11. “Gross Sales” for Best Start Daycare were \$113,000 for the year 2005. Applicant Ex. No. 2 (Income Statement). Best Start Daycare had “Net Operating Income for that year of \$1460. Id. It had expenses of “Rent” of

---

<sup>2</sup> Blossoms of Youth, Blossoms of Youth Organization and Blossoms of Youth, Inc. are referred to without distinction throughout the record.

<sup>3</sup> The Corporate Bylaws for Blossoms [sic] of Youth, Inc. specifically provide that there are shareholders to whom stock certificates are issued. Applicant Ex. No. 3 (Corporate Bylaws, Blossoms of Youth, Inc.). But see, Illinois “General Not For Profit Corporation Act of 1986”, 805 **ILCS** 105/101.01 *et seq.*, § 106.05 Shares and dividends prohibited. (“A corporation shall not have or issue shares.”).

“\$15,000, “Repairs and Maintenance” of \$1700, “Utilities” of \$3500 and “Depreciation” of \$7500. Id.

12. Best Start, the entity that is licensed to operate the programs on the property, is a corporate entity separate and apart from Blossoms of Youth. Tr. p. 38 (Thompson). Best Start Day Care Center files “income tax returns” under its own name separate from Blossoms of Youth. Tr. pp. 25-26 (Thompson)
13. No financial information was provided for Blossoms of Youth.

**Conclusions of Law:**

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to its authority granted under the Constitution, the General Assembly enacted specific exemptions to the Property Tax Code, 35 ILCS 200/1-1 *et seq.* (hereinafter the “Code”). Applicant claims exemption from property tax pursuant to section 15-35 of the Code that states, in relevant part:

§ 15-35. Schools. All property donated by the United States for school purposes, and all property of schools, not sold or leased or otherwise used with a view to profit, is exempt, whether owned by a resident or non-resident of this State or by a corporation incorporated in any state of the United States.

xxx

(b) property of schools on which the schools are located and any other property of schools used by the schools exclusively for school purposes, including, but not limited to, student residence halls, dormitories and other housing facilities for students and

their spouses and children, staff housing facilities, and school-owned and operated dormitory or residence halls occupied in whole or in part by students who belong to fraternities, sororities, or other campus organizations;  
(c) property donated, granted, received or used for public school, college, theological seminary, university, or other educational purposes, whether held in trust or absolutely;  
35 **ILCS** 200/15-35.

Therefore, it is necessary in order to qualify for a tax exemption under these statutory provisions that the property must be owned by a “school” or the property must be used for “public school” or other “educational” purposes. Id. In either situation, if the property is leased or otherwise used with a view to profit, the exemption cannot apply. Swank v. Department of Revenue, 336 Ill. App. 3d 851, 858 (2<sup>nd</sup> Dist. 2003).

Preliminarily, the general rule is that “all property is subject to taxation unless specifically exempted by statute.” Id. at 855. It is well-established law that statutes granting exemption must be narrowly and strictly construed in favor of taxation (id.) with all facts to be construed, and all debatable questions resolved, in favor of taxation. Id. at 856. Also, the party claiming the exemption has the burden of proving clearly and conclusively that it is entitled to the exemption pursuant to these fundamental principles. Id.

The first scenario that allows for a tax exemption is that the property must be owned by a school and not leased or otherwise used for profit. In this case, the owner of the property is Blossoms of Youth. The record provides that its mission is to “become a resource in the community for the Educational [sic] needs of all children.” Applicant Ex. No. 1 (Blossoms of Youth, Inc. Mission and Purpose/Programs). It does this, purportedly, through Best Start Daycare, which is licensed to operate a daycare center on the property for children the ages of 2 – 6. Applicant Ex. 4 (City of Chicago License).

Although Ms. Thompson testified that Best Start Daycare and the applicant are the same entity, she also specifically said to the contrary that Best Start was a separate corporation that filed and paid its own taxes.<sup>4</sup> No tax returns were offered for either entity, with the only financial information being an unaudited “Income Statement” for Best Start Daycare for 2005. Ms. Thompson’s testimony that Best Start has a separate and distinct corporate identity from the applicant is supported by the fact that Best Start, Era Thompson Inc. was the grantor of the property to the applicant. Applicant Ex. No. 9, p. 3 (Warranty Deed, Best Start, Inc., corporate resolutions, giving Ms. Thompson the authority to convey the property). The result of the confused and incomplete state of the record regarding the entities of concern in this matter is that I must conclude that Best Start Daycare and Blossoms of Youth are two legally distinct business entities.<sup>5</sup>

The record establishes that Best Start incurred a rental expense during the tax year at issue, although it is not specified to whom the rent was paid. It is not unreasonable to conclude that, as a legal entity distinct from the applicant-owner of the property, Best Start paid rent to the applicant herein. No rental agreement or explanations were offered on this point, thereby causing there to exist in this record, at the very least, an unresolved fact issue regarding whether applicant received rent payments for the use of its property. Certainly, the receipt of rent payments for the use of its property would be an important factor in determining whether the property was “leased or otherwise used with a view to profit” as prohibited by the statute. This unresolved issue must, therefore, be decided in favor of taxation.

---

<sup>4</sup> Best Start and Best Start Daycare are referred to without distinction throughout the record.

<sup>5</sup> The record supports a finding that Blossoms of Youth is exempt from the imposition of federal income tax under §501 (c) (3) of the IRS Code. There is no information concerning a similar exemption for the entity that uses the premises.

Even if it were assumed, for the sake of argument, that Blossoms of Youth and Best Start are one and the same, I must conclude from this record that the property is being used with a view to profit. Best Start recorded \$113,000 for “gross sales” during the tax year. Since it provides primarily daycare services for preschool children, I conclude that its gross sales are the fees it receives for its services. While there was testimony that it offers its services to an economically needy population, Ms. Thompson testified that not every child is admitted free (Tr. p. 36) and that the Illinois Department of Children and Family Services subsidizes the tuition of some students. Tr. pp. 37-38. In reality, there is no way to appreciate from this record that the daycare services are not offered primarily for full payment for those services regardless of the financial situation of the families served by Best Start. Therefore, since I cannot conclude that the property is leased or otherwise being used without a view to profit, I must decide this issue against the applicant and in favor of taxation.

Because I conclude that the property is used with a view to profit it matters not that the property is owned by a “school” as specifically provided in the first paragraph of section 15-35 or section 15-35 (b). Swank v. Department of Revenue, supra at 857. Nor does it matter if the property is being used for “educational” purposes as set forth in section 15-35 (c). Id. at 859. This applicant’s request for a property tax exemption completely fails even if the other statutory requirements are met.<sup>6</sup>

At best, the evidence in this matter is incomplete and conflicting. Based upon the record, applicant, Blossoms of Youth, failed to satisfy its mandated burden to show, by

---

<sup>6</sup> Therefore, it is unnecessary to address the issues of whether applicant qualifies as a “school” or whether the property is used for “educational” purposes.

clear and convincing evidence, that it is entitled to a property tax exemption for the subject property for the tax year.

**WHEREFORE** for the reasons stated above, it is recommended that the Department's denial of Blossom of Youth's Application for Non-homestead Property Tax Exemption for the pertinent part of the tax year 2005 for property identified by Cook County parcel number 25-08-115-020, be affirmed.

Date: 4/11/2007

Mimi Brin  
Administrative Law Judge